AJN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2204 OF 2006

Shri Rizwan Siddiquie & Ors. ... Petitioners

Vs.

The State (at the instance of Malwani Police Station). ... Respondents

Mr. Milan Desai with Mr. T.R. Patel for the petitioners.

Mr. S.R. Borulkar with Ms. S.D. Shinde, A.P.P. for the State.

CORAM : SMT. RANJANA DESAI & D. B. BHOSALE, JJ.

DATED : 22ND MARCH, 2007.

P.C.:-

1. The petitioners have approached this court for quashing of Chapter Case No.61/06 in Court Case No.135/06 pending before the Special Executive Magistrate, Malad Division.

2. We find that the present petition is premature. The challenge is to the notice issued under section 111 of the Criminal Procedure Code (for short, "Cr.P.C.") dated 14/7/2006. The petitioners have filed their replies. In the circumstances of the case, therefore, it is only proper that the petitioners contest the said notice. We, therefore, dispose of this petition by passing the

following order.

3. Respondent 2 – Asstt. Commissioner of Police, Malad Division, shall dispose of the Chapter proceedings initiated by him after considering the replies submitted by the petitioners and after hearing the petitioners, in accordance with law. In case, the decision taken by respondent 2 is adverse to the petitioners, it shall not be implemented for a period of one week from the date of service of order passed by respondent 2, on the petitioners.

4. It is clarified that if the petitioners want to file any further reply or submit any documents, they shall do so within one week from today. We notice that on account of the pendency of this petition, the period within which the Chapter proceedings have to be concluded has expired. The period will have to be extended as per section 116(6) of the Cr.P.C. In the facts of this case, the learned Magistrate is permitted to exercise his power under section 116(6) of the Cr.P.C. In any case, the said Chapter proceedings should be disposed of within three months from today. The petition is disposed of.

[SMT. RANJANA DESAI, J.]

[D. B. BHOSALE, J.]